Dear [Name],

Subject: Communication of 4 March 2019

Thank you for your email of 4 March 2019 by which you communicated to the Commission services the planned amendments to Law 4419/2016 which add paragraph 2 to Article 15 reading "Chewing tobacco, nasal tobacco and tobacco substitutes are not allowed to be placed in the market", accompanied by certain explanations and reference to Article 24(3) of Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC.

In this respect I would like to recall that pursuant to Article 24(3) of Directive 2014/40/EU a Member State may prohibit a certain category of tobacco or related product provided that such prohibition is based on grounds relating to the specific situation in the Member State concerned and is justified by the need to protect public health, taking into account the high level of protection of human health achieved through that Directive. Such national provisions should be notified to the Commission together with the grounds for introducing them.

Although your communication of 4 March 2019 is accompanied by some explanations as to the grounds for introducing the measure in question, the information provided does not allow the Commission to assess whether or not the measure concerned is justified, necessary and proportionate to its aim and whether or not it constitutes a means of arbitrary discrimination or a disguised restriction on trade between the Member States, as stipulated in Article 24(3) of Directive 2014/40/EU.

In order to allow the Commission to assess whether the proposed measure complies with the requirements laid down in Article 24(3) of Directive 2014/40/EU, we kindly request you to provide the following:

(a) Clarifications regarding the scope of the measure concerned. From the explanations in the communication of 4 March 2019 it follows that the products covered by the measure are chewing tobacco and nasal tobacco. As the communication also covers tobacco substitutes, please provide clarifications of the relevance, if any, of these products to Directive 2014/40/EU and its Article 24(3).
(b) Explanations as to what the Greek authorities consider to be the specific situation in Greece that would justify the adoption of the proposed measure.

(c) Evidence supporting the proportionality of the proposed measure, including whether any alternative or less restrictive measures were considered.

(d) Further information confirming that the measure in question cannot be considered as a means of arbitrary discrimination or a disguised restriction on trade between the Member States.

In respect of the aforesaid, the Greek authorities are invited to submit information on the Greek tobacco control policy considered relevant in support of the proposed measures, especially in terms of the aims and goals pursued by the relevant legislation (such as a specific reduction in smoking prevalence, decrease in young smokers, etc.) and the tobacco control measures already in place and any other information considered pertinent for the assessment of the proposed measure, such as:

- Up-to-date data, assessments or impact assessments regarding the measures proposed, where available, as well as an outline of the expected effects of such a measure demonstrating the justification of the need to protect public health in the light of the specific situation identified in Greece.
- Further details as regards the justification relating to the practical difficulty in distinguishing smokeless tobacco products in question from tobacco for oral use. In particular, a description of the practical enforcement issues encountered, including of the difficulties in distinguishing between different smokeless tobacco products and the grounds for which it is considered that such a difficulty would justify the proposed ban could also be included.
- Detailed breakdown of information on the current prevalence of the use of chewing and nasal tobacco products in the population, including, if possible, a breakdown per product segment (tobacco for oral use, chewing tobacco, nasal tobacco, other).

In view of the foregoing, the Greek authorities are kindly requested to submit a notification accompanied by the justifications in line with Article 24(3) of Directive 2014/40/EU to SANTE-B2 TOBACCO-CONTROL@ec.europa.eu at your earliest convenience. Please note that the six month time limit to approve or reject the national provision established under Article 24(3) will start only from the receipt of such a notification and justifications.

Kind regards,

[Name]

Directorate of International Relations
European Union Unit
Hellenic Ministry of Health

[moh.gov.gr]